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II. Executive summary

Central African Republic

1. Introduction: Overview of the legal and institutional framework of the Central African Republic in the context of implementation of the United Nations Convention against Corruption

The Central African Republic signed the United Nations Convention against Corruption on 11 February 2004 and deposited its instrument of ratification with the Secretary-General of the United Nations on 6 October 2006.

The criminalization and prosecution of the offences established by the Convention are covered mainly in the Criminal Code, the Code of Criminal Procedure and Central African Economic and Monetary Community (CEMAC) Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money-laundering and the financing of terrorism and weapons proliferation in Central Africa (hereinafter the "CEMAC Regulation"). However, given the lack of case law, a detailed review of the implementation of the Convention in practice was not possible.

The Central African Republic is a member of the Organization for the Harmonization of Business Law in Africa (OHADA).

Duly ratified or approved treaties, once published, take precedence over national legislation (art. 94 of the Constitution). The provisions of such treaties, including the provisions of the Convention, are therefore directly applicable, without the need for special implementing legislation.

The main competent bodies responsible for combating corruption and related offences are:

- The National Anti-Corruption Committee (CNLC), established by Decree No. 08.133 of 31 March 2008. The Committee's main objective was to develop an anti-corruption strategy, which was approved at national anti-corruption meetings held in Bangui from 17 to 20 September 2012 and the main recommendation of which was the creation of a high authority to combat corruption. Following the constitutional reform of March 2016, it was decided that a high authority for good governance would be established (arts. 146 to 150 of the Constitution).
- The National Financial Investigation Agency (ANIF), established by Regulation No. 01/03-CEMAC-UMAC, which became the CEMAC Regulation, and by Decree No. 05-42 of 22 February 2005. The Agency is responsible for receiving, processing and analysing reports of suspicious transactions submitted by persons subject to the obligation to combat money-laundering, the financing of terrorism and weapons proliferation.
- The special department of the prosecution service of Bangui and specialized investigation offices, established by Decree No. 05-201 of 15 July 2005.
- The Public Procurement Regulatory Authority (ARMP), established by Decree No. 08.335 of 20 September 2008, as amended by Decree No. 09.058 of 27 February 2009, on the organization and operation of the Public Procurement Regulatory Authority of the Central African Republic.

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Bribery of national public officials is a criminal offence (arts. 369 and 370 of the Criminal Code). However, the provisions on active bribery (art. 370 of the Code)

only cover the failure of a public official to act, not the performance of an act by a public official. Furthermore, benefit for another person is not an element of the offence. The list of officials to whom such offences apply differs from the list of officials covered by the offences of embezzlement and misappropriation of public property. Only the General Civil Service Regulations contain a definition of the term "official" (art. 1).

Bribery of foreign public officials and officials of public international organizations is not yet a criminal offence.

Passive trading in influence is partially criminalized (arts. 372 and 373 of the Criminal Code). The element of third-party beneficiary is not covered, and the offence applies only to certain persons. Active trading in influence is not established as a criminal offence.

Active bribery in the private sector is not established as a criminal offence. The offence of passive bribery is limited to employees and is punishable only if the act is committed "without the knowledge or consent" of the employer (art. 369 of the Criminal Code); the offence does not cover undue advantages for third parties.

Money-laundering, concealment (arts. 23 and 24)

Money-laundering is a criminal offence under article 198 of the Criminal Code and article 8 of the CEMAC Regulation. It is applicable to the widest possible range of predicate offences (art. 198), including all those established by the Convention and those committed abroad (art. 1 (42) of the CEMAC Regulation).

The laundering by a person who has committed a predicate offence of the proceeds of that offence may be prosecuted in the Central African Republic (art. 120 of the CEMAC Regulation).

Concealment is a criminal offence (art. 206 of the Criminal Code), but the concept is not defined, which makes it unclear whether it covers the elements set out in the Convention.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

The embezzlement or misappropriation of public property is a criminal offence (arts. 363 and 364 of the Criminal Code). However, the element of third-party beneficiary is not covered.

The provisions relating to abuse of functions do not correspond to article 19 of the Convention, and illicit enrichment is not established as a criminal offence.

Articles 163 and 178 of the Criminal Code criminalize theft and breach of trust, respectively. The misuse of corporate assets is a criminal offence (art. 215 of the Criminal Code and art. 891 of the Uniform Act of the Organization for the Harmonization of Business Law in Africa of 17 April 1997 on commercial companies and economic interest groups). The concepts of "diversion", "any property" and "entrusted to a person by virtue of his or her position" are not covered.

Obstruction of justice (art. 25)

Obstruction of justice is partially criminalized (arts. 129 and 139 to 144 of the Criminal Code). Article 129 of the Criminal Code does not cover interference in the giving of testimony or the production of evidence. Articles 139 to 144 of the Code mainly cover acts of contempt and violence against certain officials.

Liability of legal persons (art. 26)

The general principle of liability of legal persons is addressed in article 10 of the Criminal Code. That liability is without prejudice to the liability of natural persons. However, only the provisions that criminalize money-laundering provide for a fine

applicable to legal persons (art. 205 of the Criminal Code, art. 126 of the CEMAC Regulation and arts. 1382 et seq. of the French Civil Code of 1959, which continues to apply in the Central African Republic).

Participation and attempt (art. 27)

Complicity is a criminal offence (arts. 11 and 12 of the Criminal Code and art. 8 of the CEMAC Regulation). Participation in an association with a view to the commission of, or conspiracy to commit, an offence are provided for with regard to money-laundering (art 8. of the CEMAC Regulation). Attempt is automatically punishable in relation to serious crimes (*crimes*) (art. 3 of the Criminal Code) and in the cases provided for by law in relation to ordinary offences (*délits*) (art. 4 of the Code). As the offences established in accordance with the Convention are ordinary offences, attempt must be expressly provided for. Attempt is expressly provided for in relation to money-laundering (art. 199 of the Criminal Code and art. 114 of the CEMAC Regulation), but not for all the offences established by the Convention. The preparation of an offence is not established as a criminal offence.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

Most of the offences covered by the Convention are regarded as serious offences punishable by a maximum term of imprisonment of 5 to 10 years. In respect of fines, only those applicable to money-laundering appear to take into account the gravity of the offence (art. 202 of the Criminal Code and art. 18 of the CEMAC Regulation).

Members of Parliament enjoy immunity which can be lifted only under certain circumstances (art. 67 of the Constitution). Prosecution may also be suspended if requested by the National Assembly (art. 67 of the Constitution). Nevertheless, members of Parliament may be investigated and subject to provisional measures, and the statute of limitations period is suspended during the term of immunity. The President of the Republic has no immunity (art. 47 of the Constitution) but does have a jurisdictional privilege. Members of the National Anti-Corruption Committee have no immunity.

The principle of prosecutorial discretion is established in article 28 of the Code of Criminal Procedure, but is limited by the possibility of bringing a civil suit in criminal proceedings. The Public Prosecutor is obliged to prosecute when the case is referred to him or her by the National Financial Investigation Agency (art. 73 of the CEMAC Regulation).

Release of the accused pending trial is provided for (arts. 91 to 104 of the Code of Criminal Procedure). The Code of Criminal Procedure establishes a series of measures that may be applied by the investigating judge to ensure the presence of the person at his or her trial. Pretrial detention may be ordered under certain conditions.

Early release or parole are provided for under certain conditions established by decree (art. 428 of the Code of Criminal Procedure). At the time of the country visit, the decree in question had not yet been adopted and the role of judge responsible for enforcing sentences did not yet exist.[1]

The General Civil Service Regulations (art. 136) and the Statute governing the Judiciary (art. 72) provide for disciplinary measures. Any official who is subject to criminal proceedings must be suspended from office without pay (art. 139 of the Act on the Status of Civil Servants). In addition, any official who is subject to a disciplinary measure may no longer be admitted to sit a competitive examination for the recruitment of public officials (art. 201 of the Decree on the Status of Civil

[1] After the country visit, the authorities indicated that the role of judge responsible for enforcing sentences had been established by Decree No. 10.21 of 12 January 2017 on the appointment, delegation or confirmation of members of the judiciary in the various roles of the judiciary.

Servants), be appointed to another public position or be reintegrated into the public service. Lastly, any official who is sentenced to imprisonment is subject to immediate dismissal (art. 204 of the Decree on the Status of Civil Servants).

The prohibition on Disqualification from holding public office or taking up employment in a government agency is provided for as an additional penalty (art. 24 of the Criminal Code). However, that penalty is not expressly provided for in respect of corruption offences. Furthermore, it is not clear whether it also applies to positions in an enterprise owned in whole or in part by the State.

There are no formal measures for the social reintegration of persons who have been in custody.

The CEMAC Regulation contains provisions aimed at mitigating punishment of (art. 129), or exempting from punishment (art. 128), persons who participate or have participated in the commission of a money-laundering offence and who cooperate with the investigation and prosecution services. However, no protection measures are provided for.

Protection of witnesses and reporting persons (arts. 32 and 33)

The CEMAC Regulation provides for protection of the identity of witnesses in money-laundering cases (art. 100) and immunity from prosecution for persons subject to the obligation to combat money-laundering, the financing of terrorism and weapons proliferation who have made a statement in good faith to the National Financial Investigation Agency (art. 88). There are no other provisions on the protection of witnesses, experts, victims and other reporting persons.

Articles 2 and 4 of the Code of Criminal Procedure allow any person who has personally and directly suffered damage as a result of the commission of an offence to bring a civil suit.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

A comprehensive confiscation regime is in place (art. 21 of the Criminal Code). Confiscation is provided for in money-laundering cases (art. 201 of the Criminal Code and arts. 118 and 127 of the CEMAC Regulation), but not in corruption cases.

The investigating judge may order searches and seizures of property (art. 64 of the Code of Criminal Procedure). Article 104 of the CEMAC Regulation provides for the seizure and freezing of property in relation to an offence, as well as the seizure of any items enabling that property to be identified. The National Financial Investigation Agency has the power to suspend a suspicious transaction for 48 hours in order to refer the matter to the prosecutor, who makes the decision regarding freezing (art. 74 of the CEMAC Regulation).

The Central African Republic has no agency dedicated to the administration of frozen, seized or confiscated property.

With regard to money-laundering, the CEMAC Regulation provides for the confiscation of all or part of the property of the convicted person, including property of lawful origin (art. 118), as well as the mandatory confiscation of proceeds of crime, including property and income derived therefrom, or property acquired from legitimate sources with which such proceeds have been intermingled (art. 130).

The perpetrator of a money-laundering offence must demonstrate that he or she was unaware of the illicit origin of proceeds liable to confiscation (art. 130 of the CEMAC Regulation).

Any person acting in good faith who claims to have a right to restitution with respect to seized items may submit a claim to the investigating judge (final paragraph of art. 64 of the Code of Criminal Procedure).

Bank secrecy cannot be invoked in money-laundering cases (art. 8 of Decree No. 05.042 of 22 February 2005 and arts. 75 and 101 of the CEMAC Regulation).

Statute of limitations; criminal record (arts. 29 and 41)

The Code of Criminal Procedure provides for a statute of limitations period for prosecution of 10 years for serious crimes (art. 7) and three years for ordinary offences (art. 8). As money-laundering and corruption offences are ordinary offences, they are subject to a statute of limitations period of three years. That period is suspended when investigative actions or criminal proceedings are initiated. The Code does not address suspension of the statute of limitations period when the offender has evaded the administration of justice.

The Central African Republic does not take into account convictions in another State when prosecuting offences.

Jurisdiction (art. 42)

The jurisdiction of the Central African Republic with regard to the mandatory provisions of the Convention is established under article 322 of the Code of Criminal Procedure, which provides that any person may be prosecuted and tried under the conditions provided for by the Convention. However, it is unclear whether that article makes it possible to establish the jurisdiction of the national courts in respect of the non-mandatory provisions of article 42 of the Convention.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

The Public Procurement Code establishes grounds for the termination of contracts (art. 34). Termination in connection with corruption is not expressly provided for. However, legal acts concluded through corruption may be annulled on the grounds that they are unlawful (art. 1131 of the Civil Code).

Any person who has directly suffered damage may bring a civil suit for damages caused directly by an offence (arts. 2 and 4 of the Code of Criminal Procedure). Associations are entitled to be a party to legal proceedings (art. 7 of the Regulations governing Associations).

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

The Central African Republic has several specialized agencies, including in particular the National Anti-Corruption Committee (Decree of 31 March 2008) and the National Financial Investigation Agency (Decree of 22 February 2005). However, the Committee is not a law enforcement authority. The Agency suffers from a significant lack of resources.

A special department for economic matters was established within the prosecution service of Bangui by Decree No. 05.201 of 15 July 2005.

The law does not provide for direct cooperation between the public authorities and public officials or between the public authorities and investigation and prosecution authorities.

Some training has been developed for the private sector on the issues of corruption and money-laundering. The reporting of suspicious transactions to the National Financial Investigation Agency is obligatory (art. 83 the CEMAC Regulation).

2.2. Successes and good practices

- The President of the Republic has no immunity but simply a jurisdictional privilege (art. 30 (2));
- The prosecutor is required to prosecute in cases of civil action for damages in criminal proceedings and when cases are referred to him or her by the National Financial Investigation Agency (art. 30 (3)).

2.3. Challenges in implementation

It is recommended that the Central African Republic:

- Collect statistics and case law
- Consider adopting a general definition of "public official" that covers all the officials referred to in article 2 (a) of the Convention (arts. 15 and 17)
- Include the concept of third-party beneficiary in the provisions establishing the offence of bribery of national public officials (art. 15)
- Include not only the failure of public officials to act but also the performance of an act as elements of the offence of active bribery of national public officials (art. 15 (a))
- Criminalize active bribery of foreign public officials and officials of public international organizations and consider criminalizing passive bribery of such officials (art. 16)
- Extend its provisions on embezzlement and misappropriation of property to cover the commission of those acts for the benefit of another person (art. 17)
- Consider criminalizing active trading in influence and expanding its provisions on passive trading in influence to include the concept of third-party beneficiary and not limit the offence to certain perpetrators (art. 18)
- Consider establishing a general offence of abuse of functions (art. 19)
- Consider criminalizing illicit enrichment (art. 20)
- Consider criminalizing active bribery in the private sector; also consider expanding its provisions on passive bribery in the private sector to include the element of undue advantage for another person and removing the additional element of "without the knowledge or consent of his or her employer" (art. 21)
- Ensure that offences relating to embezzlement of property in the private sector cover the concepts of "diversion", "any property" and "entrusted to a person by virtue of his or her position" (art. 22)
- Consider defining the concept of concealment in accordance with the provisions of article 24 of the Convention (art. 24)
- Take such legislative measures as may be necessary to ensure that offences relating to obstruction of justice cover all the elements established by the Convention, in particular the act of interfering in the giving of testimony or the production of evidence, and ensure that those offences apply to all justice and law enforcement officials (art. 25)
- Provide for the liability of legal persons for offences other than money-laundering and establish the applicable penalties (art. 26)
- Ensure that attempt is covered in respect of offences other than money-laundering established in accordance with the Convention, and consider criminalizing acts of preparation (art. 27)
- Provide for a statute of limitations period that covers cases where the alleged offender has evaded the administration of justice, and consider extending the period applicable to offences established in accordance with the Convention (art. 29)
- Take such measures as may be necessary to ensure that all sanctions applicable to corruption offences fully take into account the gravity of those offences, in the same way as sanctions applicable to money-laundering offences (art. 30 (1))
- Adopt the decree that relates to early release and parole and that establishes the role of judge responsible for enforcing sentences (art. 30 (5))

- Consider establishing procedures that enable the competent authority to remove or reassign a public official accused of an offence established in accordance with the Convention (art. 30 (6))
- Consider ensuring that all convicted persons are prohibited from holding public office or holding office in an enterprise owned in whole or in part by the State (art. 30 (7))
- Consider adopting measures relating to the reintegration of persons who have been in custody (art. 30 (10))
- Adopt such measures as may be necessary to enable the application of confiscation, freezing and seizure measures in corruption cases, in line with the measures adopted with regard to money-laundering cases (art. 31)
- Establish a specialized body for the administration of seized, confiscated or frozen property in accordance with the provisions of the Convention (art. 31 (3))
- Ensure that bank secrecy is not an obstacle to prosecution (arts. 31 (7) and 40)
- Consider the possibility of requiring that an offender demonstrate the lawful origin of property liable to confiscation (art. 31 (8))
- Establish a legal framework to ensure the effective protection of witnesses, experts, victims and any persons, regardless of whether they have participated in the commission of an offence, who provide the competent authorities with information regarding an offence (arts. 32, 33 and 37 (4))
- Create a body specialized in combating corruption through law enforcement and ensure that that body is given the necessary independence, capacity and resources; and consider strengthening existing bodies (art. 36)
- Extend measures to encourage persons who participate or who have participated in the commission of an offence to supply information useful to competent authorities in cases other than money-laundering cases; and consider implementing measures to reduce or grant exemption from punishment (art. 37)
- Take such measures as may be necessary to enable direct cooperation between national authorities responsible for detecting and combating offences (art. 38)
- Take such measures as may be necessary to encourage cooperation between national investigating and prosecuting authorities and the private sector beyond money-laundering cases (art. 39 (1))
- Consider taking measures to encourage persons to report the commission of an offence (art. 39 (2))
- Consider implementing provisions relating to criminal records (art. 41)
- Consider ensuring that jurisdiction is established in respect of the non-mandatory provisions of article 42 (art. 42 (2) and (4)).

2.4. Technical assistance needs identified to improve implementation of the Convention

- Summary of good practices and lessons learned (arts. 17, 32 and 33)
- On-site assistance provided by a qualified expert (art. 41)
- Legal advice (arts. 31 and 41)
- Development of an action plan (arts. 16, 31, 32, 33, 34, 35, 37 and 41)
- Capacity-building programmes (arts. 17, 31, 32, 33, 34, 35 and 37)
- Model laws (arts. 16, 32, 33, 34, 36 and 41)
- Legal drafting (arts. 31, 37 and 41)

- Financial support for the construction of a building to house the headquarters of the new high authority for good governance (art. 36)
- Assistance with establishing a specific law to ensure the independence of the body established (art. 36)
- Strengthening of the authorities responsible for combating corruption (art. 37)
- Capacity-building:
  - in the area of judicial review and adjustment of sentences (art. 30)
  - of for the judiciary and the bodies responsible for preventing, detecting and combating the offences covered by the Convention (art. 36)
- Assistance with networking national bodies involved in combating the offences covered by the Convention (art. 38).

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

Extradition, transfer of sentenced persons, transfer of criminal proceedings (arts. 44, 45 and 47)

The Central African Republic has no specific law on extradition. Bilateral and multilateral extradition agreements have been signed, such as the Extradition Agreement between Member States of the Central African Economic and Monetary Community (hereinafter the "CEMAC Extradition Agreement") of 28 January 2004 and the Agreement on Cooperation in Judicial Matters with France of 18 January 1965. In addition, the CEMAC Regulation contains provisions relevant to money-laundering offences (arts. 159 to 164). An agreement with Morocco was being negotiated at the time of the country visit. In the absence of an international agreement stipulating otherwise, the conditions and effects of and procedure for extradition are determined by the Code of Criminal Procedure (art. 377; see also art. 11 of the CEMAC Extradition Agreement).

Extradition is subject to the dual criminality requirement (art. 380 of the Code of Criminal Procedure). The maximum sentence for the offence in question must be greater than or equal to two years (art. 380 of the Code). That term is reduced to one year under some agreements (art. 41 of the Agreement on Cooperation in Judicial Matters with France and art. 3 (1) of the CEMAC Extradition Agreement), and for certain offences there is no minimum penalty requirement (art. 159 of the CEMAC Regulation). In the case of the commission of multiple offences, the CEMAC Extradition Agreement permits unconditional extradition for all those offences. Other instruments require that the penalty applicable to all the sentences should be greater than or equal to two years' imprisonment (art. 381 (2) of the Code of Criminal Procedure).

In direct application of the Convention, offences established in accordance with the Convention are not considered to be political offences, and are all regarded as extraditable offences.

The Central African Republic does not make extradition conditional on the existence of a treaty and considers the Convention to be a legal basis for extradition; however, it has not informed the Secretary-General of that fact.

There is an expedited extradition procedure for money-laundering offences (art. 160 of the CEMAC Regulation) and for cases in which the person consents to being extradited (arts. 390 and 391 of the Code of Criminal Procedure). A person whose extradition is requested may be detained (art. 16 of the CEMAC Extradition Agreement, art. 162 of the CEMAC Regulation, art. 388 of the Code of Criminal Procedure and art. 51 of the General Convention on Judicial Cooperation signed by the States of the African and Malagasy Union).

The extradition of nationals is not possible (arts. 379 and 382 (1) of the Code of Criminal Procedure and art. 42 of the above-mentioned General Convention on Judicial Cooperation). The principle of *aut dedere aut judicare* is established in several conventions (art. 40 of the Agreement on Cooperation in Judicial Matters with France, art. 164 of the CEMAC Regulation, art. 5.4 of the CEMAC Extradition Agreement and art. 42 of the General Convention on Judicial Cooperation) but not in the Code of Criminal Procedure.

The Central African Republic may enforce a sentence imposed abroad if the extradition of a national for the purposes of enforcing a sentence is refused in direct application of the Convention and in accordance with article 60 of the General Convention on Judicial Cooperation.

The rights of individuals who are subject to extradition proceedings are guaranteed by the Constitution (arts. 3, 4 and 5) and the Code of Criminal Procedure (art. 388).

Extradition for discriminatory reasons on the basis of the sex, race, religion, nationality or ethnic origin of the person whose extradition is requested may be refused on the basis of the Constitution (art. 6). Refusal to extradite for political offences is provided for (art. 42 of the Agreement on Cooperation in Judicial Matters with France and art. 44 of the General Convention on Judicial Cooperation). Article 382 of the Code of Criminal Procedure provides for refusal to grant extradition requested for a political purpose or when the person sought would be tried by a court which does not offer the fundamental safeguards of criminal procedure or protection of the rights of defence.

The fact that an offence is considered to involve fiscal matters is not included among the grounds for refusal (art. 382 of the Code).

The transfer of sentenced persons is possible under a treaty (art. 22 of the Agreement on Cooperation in Judicial Matters with France).

The transfer of criminal proceedings is provided for only in the CEMAC Regulation (art. 134), but the authorities confirmed that the Central African Republic may directly apply the provisions of the Convention (art. 503 of the Code). Nevertheless, no transfer of criminal proceedings had taken place at the time of the country visit.

Mutual legal assistance (art. 46)

Mutual legal assistance is governed by articles 364 to 373 of the Code of Criminal Procedure and by the Judicial Cooperation Agreement between the CEMAC member States (hereinafter the "CEMAC Judicial Cooperation Agreement"). There are also relevant provisions in the CEMAC Regulation (arts. 133 to 164), the Agreement on Cooperation in Judicial Matters with France and the General Convention on Judicial Cooperation.

There are no restrictions regarding the provision of mutual legal assistance in connection with offences involving legal persons. The Central African Republic can cooperate on the basis of the Convention.

The Central African Republic can provide any form of mutual legal assistance that would be permitted in domestic proceedings. However, a prosecuted person may be subject to questioning or confrontation only with his or her consent (art. 369 of the Code of Criminal Procedure).

The transmission of relevant information without prior request is not possible, except in cases of money-laundering and financing of terrorism (art. 82 of the CEMAC Regulation).

Bank secrecy does not constitute a ground for refusal to provide mutual legal assistance (art. 368 of the Code of Criminal Procedure).

The Code allows mutual legal assistance in the absence of dual criminality, while dual criminality is required under the CEMAC Judicial Cooperation Agreement (art. 21).

The temporary transfer of detained persons is provided for by article 25 of the CEMAC Judicial Cooperation Agreement and article 140 of the CEMAC Regulation.

The Ministry of Justice is the central authority for receiving requests for mutual legal assistance (art. 364 of the Code of Criminal Procedure). However, the Central African Republic has not informed the Secretary-General of that fact. In urgent circumstances, requests may be sent directly to the competent authorities for execution (art. 364 of the Code). However, the transmission of requests through the International Criminal Police Organization (INTERPOL) is possible only in cases of money-laundering (art. 135 of the CEMAC Regulation).

Requests must be made in writing in French or Sango (art. 24 of the Constitution). The Secretary-General has not been informed of the acceptable languages.

The required form and content of requests are specified in certain provisions (art. 34 of the Agreement on Cooperation in Judicial Matters with France and art. 142 of the CEMAC Regulation). However, the related provisions of the Convention are directly applicable.

Hearings by videoconference in relation to the giving of testimony are not governed by domestic legislation, and would not be possible in practice.

There are no provisions establishing the rule of speciality or governing the confidentiality of requests, but the Central African Republic can apply the Convention directly in that regard.

The grounds for refusing a request for mutual legal assistance are established by article 368 of the Code of Criminal Procedure, article 6 of the Agreement on Cooperation in Judicial Matters with France and article 143 of the CEMAC Judicial Cooperation Agreement. Reasons must be given for refusing a request for mutual legal assistance (art. 368 of the Code of Criminal Procedure, art. 33 of the CEMAC Judicial Cooperation Agreement and art. 143 of the CEMAC Regulation).

Direct application of the Convention enables the prompt execution of the request and the possibility for the requesting State to propose deadlines.

Safe conduct is governed by the CEMAC Judicial Cooperation Agreement (art. 26), the Agreement on Cooperation in Judicial Matters with France (art. 10), and the CEMAC Regulation (art. 147) and can be ensured by direct application of the Convention.

The costs resulting from the execution of requests for mutual legal assistance are regulated only by the General Convention on Judicial Cooperation (art. 12) and the CEMAC Judicial Cooperation Agreement; the latter provides that such costs should be borne by the requested State, except in relation to the involvement of experts and the transfer of detained persons (art. 34).

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

The Central African Republic has concluded an agreement on police cooperation among the Central African States, which provides for direct cooperation between law enforcement agencies, and has posted liaison officers to neighbouring countries on the basis of that agreement. The CEMAC Regulation provides for the direct cooperation of national financial investigation agencies at the regional level (art. 80) and the international level (art. 82). The Central African Republic can use the Convention as a basis for cooperation, and cooperates through INTERPOL. The National Financial Investigation Agency is not a member of the Egmont Group of Financial Intelligence Units. The Central African Republic faces practical challenges to cooperation in relation to offences committed through the use of modern technology.

The Central African Republic may conduct joint investigations (arts. 374 to 376 of the Code of Criminal Procedure and arts. 5 to 15 of the Agreement on Police Cooperation).

Special investigative techniques are not provided for. However, the authorities confirmed that they were used in practice. The Central African Republic has not concluded agreements on their use. The Code of Criminal Procedure governs foreign undercover operations conducted in the Central African Republic, as well as the surveillance of persons abroad (arts. 370 and 371).

3.2. Successes and good practices

- Extradition for several offences is possible when the maximum penalty for all the offences is greater than or equal to two years, which is also the limit applicable to a single offence (art. 381 of the Code of Criminal Procedure).
- Article 393 of the Code of Criminal Procedure provides that the indictments chamber may authorize the requesting State to participate in the hearing at which the extradition request is considered (art. 44 (17) of the Convention).

3.3. Challenges in implementation

It is recommended that the Central African Republic:

- Examine whether the adoption of specific legislation on extradition and mutual legal assistance could be beneficial (arts. 44 and 46)
- Grant extradition in the absence of dual criminality (art. 44 (2))
- Inform the Secretary-General that it considers the Convention to be a legal basis for extradition (art. 44 (6) (a))
- Clarify in its legislation that all offences established in accordance with the Convention are extraditable; that, if extradition is refused, the case shall be submitted to the competent national authorities for prosecution; and that a sentence imposed under the domestic law of the requesting State will be enforced if extradition for the purposes of enforcing a sentence is refused (art. 44 (7), (11) and (13))
- Consider entering into additional agreements or arrangements on the transfer of sentenced persons (art. 45)
- Facilitate questioning or confrontation to which a prosecuted person has not given his or her consent (art. 46 (3) (a))
- Consider transmitting information relating to criminal matters without prior request in cases other than money-laundering cases (art. 46 (4))
- Provide assistance that does not involve coercive action under any circumstances, even in the absence of dual criminality, and consider providing a wider scope of assistance in such cases (art. 46 (9) (b) and (c))
- Facilitate the transfer of detained persons outside the context of the CEMAC Regulation and the CEMAC Judicial Cooperation Agreement (art. 46 (10) to (12))
- Inform the Secretary-General of its competent authority with regard to mutual legal assistance, and examine whether the transmission of requests through INTERPOL could be beneficial in cases other than money-laundering cases (art. 46 (13))
- Inform the Secretary-General of the languages acceptable to it with regard to requests for mutual legal assistance, and consider accepting oral requests confirmed in writing in urgent cases (art. 46 (14))
- Provide for hearings by videoconference, and make them possible in practice (art. 46 (18))

- Examine whether it would be beneficial to adopt a provision to the effect that requests for mutual legal assistance may not be refused on the sole ground that the offence is also considered to involve fiscal matters (art. 46 (22))
- Clarify in its legislation that the costs of executing a request for mutual legal assistance are borne by the requested State, and that the requesting State may suggest deadlines and request information on the status and progress of requests (art. 46 (24) and (28))
- Consider clarifying in its legislation the possibility of transferring between it and other States Parties proceedings for the prosecution of an offence (art. 47)
- Develop cooperation with other States to enhance the effectiveness of law enforcement action (art. 48 (1))
- Endeavour to cooperate to respond to Convention offences committed through the use of modern technology (art. 48 (3))
- Provide for special investigative techniques at the national level; the Central African Republic is encouraged to conclude agreements or arrangements for using any special investigative techniques in the context of international cooperation and to facilitate controlled delivery at the international level, which may include intercepting and allowing the goods or funds to continue (art. 50 (1) to (4)).

3.4. Technical assistance needs identified to improve implementation of the Convention

In order to improve the implementation of chapter IV of the Convention, the Central African Republic indicated the following technical assistance needs:

- Summary of good practices and lessons learned (arts. 44, 45, 46, 47, 48 and 50)
- Legal advice (arts. 44, 45, 47 and 50)
- Capacity-building programmes (arts. 44, 45, 46, 47 and 50)
- Development of an action plan for implementation (arts. 44, 45, 47 and 48).